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UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK

- - - - - x
 UNITED STATES OF AMERICA, :

Plaintiff, : **COMPLAINT**

- against - :
 : 07 Civ. 4049 (JSR)
 :

FREDERICK HOLZER AND TATJANA A. : ECF Case
 ZANKI AND JOHN DOES 1-10, :

Defendants. :

- - - - - x

Plaintiff, United States of America, by its attorney
 Michael J. Garcia, United States Attorney for the Southern
 District of New York, herein alleges upon information and belief
 for its complaint as follows:

INTRODUCTION

1. This is a civil action brought by plaintiff, the
 United States of America, on behalf of its agency the Internal
 Revenue Service ("IRS"), (a) to reduce to judgment an assessment
 of the federal tax liabilities of defendant Frederick Holzer for
 unpaid taxes, penalties and interest provided by law, and (b) to
 foreclose on a tax lien upon personal property jointly owned by
 Frederick Holzer and Tatjana A. Zanki, namely Unit 3D, a

condominium apartment located at 335 East 51st Street ("the Apartment").

2. This action has been authorized and requested by a delegate of the Secretary of the Treasury, and is brought at the direction of the Attorney General of the United States pursuant to the provisions of 26 U.S.C. §§ 7401 and 7403.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. §§ 7402(a) and 7403(a).

4. Venue is proper pursuant to 28 U.S.C. §§ 1391(b) and 1396, because the current owners of the property, Frederick Holzer and Tatjana A. Zanki, reside in the Southern District of New York, because the Apartment is located in the Southern District of New York, and because the tax liability giving rise to this action accrued while the taxpayer, Frederick Holzer, resided in the Southern District of New York.

PARTIES

5. Defendant Frederick Holzer is a natural person whose last known address is 335 East 51st Street, New York, New York 10017.

6. Defendant Tatjana A. Zanki, is a natural person whose last known address is 335 East 51st Street, New York, New York 10017.

7. Defendants John Does 1-10 are fictitious persons or entities, unknown to plaintiff, who may have an interest in the Apartment.

FIRST CLAIM FOR RELIEF – REDUCE AN ASSESSMENT TO JUDGMENT

8. The allegations in paragraphs 1 through 7 are repeated and realleged as though set forth fully herein.

9. Holzer is indebted to the United States for unpaid federal income taxes for the tax periods ending December 31, 1996; December 31, 1997; December 31, 1998; December 31, 1999; December 31, 2000; December 31, 2001; December 31, 2002; and December 31, 2004, in the total amount, including interest computed to May 1, 2007, of \$158,476.43. The \$158,476.43 amount owed is comprised of the amount of assessment with interest as of May 1, 2007:

<u>Tax Period</u>	<u>Date of Assessment</u>	<u>Amount of Assessment</u>
1996	May 26, 1997	\$8,236.85
1997	August 17, 1998	\$11,274.98
1998	June 14, 1999	\$21,744.59
1999	August 28, 2000	\$25,119.69
2000	August 20, 2001	\$2,440.63
2001	May 13, 2002	\$3,453.71
2002	June 9, 2003	\$8,689.77
2003	June 7, 2004	\$19,830.50
2004	May 30, 2005	\$2,871.83

10. On or about the dates of assessment set forth in paragraph 9, the IRS issued notices of assessment and demands for payment of the assessed liability to Holzer. The IRS has made numerous other attempts to collect this tax liability and has exhausted its administrative efforts to collect.

11. By reason of the foregoing, and pursuant to 26 U.S.C. §§ 6321 and 6322, a federal tax lien arose as of the date of the assessment in favor of the United States upon all property and rights to property of Frederick Holzer.

12. On February 2, 1998, the IRS filed a Notice of Federal Tax Lien against Frederick Holzer in New York County, New York, for the deficiencies listed in paragraph 9 for the tax period ending December 31, 1996. At that time, the unpaid balance subject to this lien was \$6,720.22.

13. On October 8, 1998, the IRS filed a Notice of Federal Tax Lien against Frederick Holzer in New York County, New York, for the deficiencies listed in paragraph 9 for the tax period ending December 31, 1997. At that time, the unpaid balance subject to this lien was \$9,343.75.

14. On September 7, 2006, the IRS filed Notices of Federal Tax Lien against Frederick Holzer in New York County, New York, for the deficiencies listed in paragraphs 9 and 10 for the tax period ending December 31, 1998, December 31, 1999, December 31, 2000, December 31, 2001, December 31, 2002, December 31, 2003,

and December 31, 2004. At that time, the unpaid balances subject to these liens was \$75,352.70.

15. Despite the notices of assessment and demands for payment described in paragraphs 9 and 10, Holzer failed to pay in full the assessed sums, and remains liable to the United States for the unpaid federal income taxes for tax periods ending December 31, 1996; December 31, 1997; December 31, 1998; December 31, 1999; December 31, 2000; December 31, 2001; December 31, 2002; and December 31, 2004, as well as statutory interest, additions, and penalties. Statutory interest and additions continue to accrue on this amount according to law.

16. By this action, the United States seeks to reduce the aforementioned tax assessments to judgment and foreclose on the liens.

SECOND CLAIM FOR RELIEF - FORECLOSE

17. The allegations of paragraphs 1 through 16 hereof are repeated and realleged as though fully set forth herein.

18. The federal tax liens arising in favor of the United States, described above, attached to all property or rights to property that Holzer owned as of the dates of the federal tax assessments and thereafter acquired. By this action the United States seeks to foreclose its liens against property owned by Frederick Holzer as of that date, specifically the Apartment now jointly owned by Holzer and Tatjana A. Zanki.

19. Holzer and Lynda Holzer, his spouse, jointly purchased the Apartment on November 28, 1984.

20. On June 30, 1987, Lynda Holzer transferred her interest in the Apartment to Holzer.

21. On April 28, 1988, Holzer transferred the Apartment to himself and Lynda Holzer as tenants by the entirety.

22. On November 28, 1989, Lynda Holzer again transferred her interest in the Apartment to Holzer.

23. On August 10, 2006, Holzer deeded the Apartment to himself and Tatjana A. Zanki as joint tenants with rights of survivorship, a transfer made subject to the federal tax liens as described above.

24. The federal tax lien against all property and rights to property of Frederick Holzer attached to his interest in the Apartment, on the dates the assessments were made, and the liens have remained attached to the Apartment from those dates to the present.

25. The federal tax liens have not been satisfied in part or in full.

26. Defendant Tatjana A. Zanki is a named party defendant herein because she has, or may claim to have, an interest in or lien on the Apartment.

27. Defendants John Does Nos. 1-10 are named parties herein because each, some, or all may have or claim to have an interest

in or lien on the Apartments.

28. On information and belief, no other person or entity has an interest in the Apartments.

29. No other action has been commenced at law or otherwise for the recovery of this sum or any part thereof.

WHEREFORE, plaintiff the United States demands judgment:

(a) reducing to judgment Frederick Holzer's tax liability, which as of May, 2007 was \$158,476.43 including penalties and interest, plus interest accruing thereafter and less any payments made not taken into account in making such computation as of May 1, 2007;

(b) declaring that Frederick Holzer's interest in the Apartment is subject to valid and subsisting federal tax liens;

(c) declaring that the defendants, and all other persons whose interest in the Apartment is subordinate to or recorded after the attachment of the Government's lien be forever barred and foreclosed from all right, title, claim, lien or other interest in the Apartment;

(d) directing the foreclosure of the IRS tax liens upon the Apartment and sale of the Apartment by an officer of this court with the proceeds to be applied to the debt due plaintiff under the lien, together with interest to the date of payment, plus costs and disbursements of this action;

(e) adjudging Frederick Holzer liable for a deficiency

judgment, in the event of a deficiency in the amount collected upon the sale of the Apartment, in the amount of any such deficiency;

(f) directing that any current occupant of the Apartment vacate it on or before the date of foreclosure upon the lien; and

(g) granting the United States its costs, disbursements, and such further relief against defendants as the Court may deem just and proper.

Dated: New York, New York
May 23, 2007

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of America

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